

SECTION 9. DISSEMINATION OF INFORMATION

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 02-26-2007 BY 60324 AUC BAW/CPB/STP

9-1 RESPONSIBILITY (See MIOG, Part 2, 34-7.)

The proper utilization of information received by the FBI, either through investigation or otherwise, is foremost among our responsibilities. Such information may be of vital interest to another Government agency and/or local law enforcement agencies. Of course, there are certain restrictions which must be observed as to type of information disseminated and recipients to whom disseminated. This section sets forth guidelines to be followed in this respect. In all matters relating to dissemination, good judgment and common sense should prevail. It is FBI policy to disseminate vital and important information to which other agencies, including local law enforcement, are justifiably entitled. There must be no indiscriminate or arbitrary dissemination. Cases of doubt should be brought to the attention of a supervisory official.

9-1.1 Briefing Material Prepared for Presentation Outside the FBI

Briefing material prepared for presentation outside the FBI or testimony by Bureau officials should include the name and initials of the senior Bureau official approving the material and the date it was prepared. Additionally, divisions responsible for the preparation of the material are required to maintain records reflecting the source of information used in the preparation of the briefing material and the names of the individuals who drafted the material.

9-2 BASIS FOR DISSEMINATION

FBIHQ serves as clearinghouse for information affecting the internal security of the United States.

9-2.1 Internal Security Matters

Presidential directives have specifically requested all law enforcement officers to report information regarding espionage, sabotage, subversive activities and related matters to the FBI. These directives have charged the FBI with responsibility of correlating material and referring matters under jurisdiction of the other federal agencies to the appropriate agencies. (For further details, see Manual of Investigative Operations and Guidelines and National Foreign Intelligence Program Manual (NFIPM).)

9-2.2 Delimitations Agreement Between the FBI and Armed Forces Intelligence Agencies

Delimitations Agreement between the FBI and armed forces intelligence agencies provides for exchange of information of mutual interest. The agreement provides that where there is doubt as to whether or not one of subscribing agencies is interested in information collected, it should be resolved in favor of transmitting the information. (For further details, see National Foreign Intelligence Program Manual (NFIPM).)

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9-2.3 National Security Act - 1947

National Security Act of 1947 provides that upon written request from Director of Central Intelligence Agency (CIA), the FBI shall make available information for correlation, evaluation and dissemination essential to national security.

9-2.4 Executive Order 10450

Establishes procedures for checking FBI records for names of applicants and incumbents of departments or agencies of the Executive Branch. It also sets forth responsibilities for dissemination of loyalty and suitability information to other Government agencies.

9-2.5 Departmental Order 3464, Supplement No. 4 (Revised)

Supplement No. 4 (Revised) of Departmental Order 3464 (now superseded) signed by Attorney General on January 13, 1953, designated all official records and information of the FBI as confidential. However, it has been long-standing policy concurred in by the various Attorneys General, for the FBI to furnish pertinent information coming to our attention during conduct of investigations to other interested agencies of the Executive Branch.

9-2.6 Memorandum of Understanding Between Departments of Justice and Defense

Memorandum of Understanding entered into in 1984, by the Department of Justice and Defense, requires the FBI to make results of certain investigations available to the military authorities.

9-2.7 Agreement Between the FBI and Secret Service Concerning Protective Responsibilities

Other agreements such as the Agreement Between the FBI and Secret Service concerning protective responsibilities require that we disseminate certain information.

9-2.8 Identification Records (See MAOP, Part II, 9-3.1.1.)

Authority for the FBI to perform identification functions is contained in Title 28, USC, Section 534. (See MIOG, Part II, 14-4, "DISSEMINATION GUIDELINES FOR FBI CRIMINAL JUSTICE INFORMATION SERVICES (CJIS) DIVISION RECORDS.")

9-3 INFORMATION TO BE DISSEMINATED (See MIOG, Part I, 62-3.3(6), 190-3.2; Part II, 34-7.)

(1) In the majority of instances, information received by the FBI will be of interest and should be furnished to one or more agencies of the Executive Branch of government. Care should be taken, however, not to disseminate information to any field branch of another government agency where there is a known lack of security. FBIHQ must be promptly advised should any such situation arise.

(2) Dissemination is ordinarily restricted to federal agencies in the Executive Branch. However, there are situations within which dissemination to federal judicial and legislative agencies, as well as to state and local agencies, is appropriate, with due regard for Privacy Act guidelines. Provided that such dissemination does not jeopardize any pending FBI investigations or informants and does not violate the Privacy Act, these agencies should be furnished pertinent information.

Dissemination of information to the federal judicial and legislative branches should be cleared with

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FBIHQ. FBIHQ elements and Field Offices will ensure timely dissemination of information to enhance public safety and national security in conformance with Attorney General Memorandum dated September 21, 2001, "Disseminating Information to Enhance Public Safety and National Security." Dissemination of information in order to prevent or disrupt a credible threat to public safety or national security should not be delayed merely to maintain the viability of a criminal investigation or avoid compromising a source of information. (AG Memo dated 9/21/2001, "Disseminating Information to Enhance Public Safety and National Security.")

(3) Dissemination of FBI information to a legitimate agency of a foreign government may be made where the FBI determines that the information is relevant to that agency's responsibilities, dissemination serves the best interests of the U.S. government, and where the purpose in making the disclosure is compatible with the purpose for which the information was collected and is not prohibited by law.

9-3.1 Dissemination to State and Local Criminal Justice and Noncriminal Justice Agencies

(1) Dissemination to any state or local government agency should be restricted as a general practice to those agencies directly engaged in the criminal justice process, e.g., police, prosecution, penal, probation, and parole and the judiciary, and only where access is directly related to a law enforcement function of the recipient agency, e.g., in connection with a lawful criminal or intelligence investigation, or making a determination concerning an individual's suitability for employment as a state or local law enforcement employee, or concerning a victim's compensation under a state statute. Disclosure to a state or local government agency not directly engaged in the criminal justice process, or for a licensing or regulatory function, is considered on an individual basis only under exceptional circumstances. Such determinations are made at FBIHQ.

(2) The procedures discussed in 9-3.1 through 9-3.1.5 do not apply to the day-to-day exchange of information between the FBI and local law enforcement agencies which is of joint criminal investigative interest to both agencies. The values and principles discussed here, however, should be taken into consideration during such informal exchanges of information (no dissemination of irrelevant or inaccurate information should ever take place).

(3) The procedures discussed in 9-3.1 through 9-3.1.5 are to be applied in a manner consistent with Attorney General Memorandum dated September 21, 2001, "Disseminating Information to Enhance Public Safety and National Security" as referenced in 9.3 (2). (AG Memo dated 9/21/2001, "Disseminating Information to Enhance Public Safety and National Security.")

9-3.1.1 Dissemination to State and Local Criminal Justice Agencies (See MAOP, Part II, 9-3.1(2); MIOG, Part I, 190-3.2.)

When a state or local criminal justice agency desires information from FBIHQ files, a written communication on the agency's letterhead and signed by an appropriate official of the agency must be submitted containing the following:

- (1) The nature and scope of the specific information desired.
- (2) The law enforcement function to be served by the requested information.

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(3) Sufficient identifying information to ensure a proper search of FBIHQ indices and an intelligent review of files (Name, Date of Birth, Place of Birth, Social Security Account Number, Residence, Employment, etc.). (See MAOP, Part II, 9-3.1.2(4).)

The above procedure applies to requests for information from FBIHQ files and does not affect established procedures in the field for responding to formal or informal requests, as noted in 9-3.1(2), for information from the files of the field office. Established procedures as in 9-2.8 and MIOG, Part II, 14-4, for obtaining information or assistance from the Criminal Justice Information Services Division at FBIHQ also remain unaffected.

9-3.1.2 Dissemination to State and Local Noncriminal Justice Agencies (See MAOP, Part II, 9-3.1(2) and 9-3.1.4.)

Requests for information submitted by a noncriminal justice agency are considered at FBIHQ on an individual basis in all cases, even if only field office records are sought. This requires a showing of exceptional circumstances under subsection (b)(3) of the Privacy Act of 1974, Title 5, USC, Section 552a, and 58 Federal Register 51,870 (Oct. 5 1993). To meet that standard, requests must be in writing on agency letterhead signed by an appropriate official of the agency. They must include:

- (1) The nature and scope of the specific information desired.
- (2) The exceptional circumstances on which the request is based, i.e., the circumstances which indicate that failure to disclose could reasonably be expected to permit an individual or organization to engage in probable criminal activity or activity which could adversely affect the public welfare.
- (3) The agency's functions which will be served by the requested information.
- (4) Sufficient identifying data as outlined under 9-3.1.1(3).

These requests should be directed to FBIHQ, Attn: Administrative Law Unit, Office of the General Counsel (OGC).

9-3.1.3 FBIHQ Processing Guidelines (See MAOP, Part II, 9-3.1(2).)

(1) There can be no dissemination to a state or local agency of classified or otherwise privileged information, such as informants' identities. Federal grand jury information can be disseminated to a state or local agency only pursuant to Fed. R. Crim. P. 6(e) (see MIOG, Part II, 2-9.5 (5)). Information disseminated will be reviewed to ensure it is accurate, complete, timely, and relevant insofar as it is reasonably possible.

- (2) Telephone requests cannot be honored.
- (3) Requests which have been forwarded to FBIHQ will be returned to the requesting agency through the field office which submitted it, or the field office which covers the territory.
- (4) Copies of the response to requests submitted directly by the agency to FBIHQ will be designated for the field office which covers the territory, together with a copy of the agency's request.

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9-3.1.4 Field Office Responsibility (See MAOP, Part II, 9-3.1(2).)

When requests are submitted to field office, the following applies:

- (1) Requests meeting the above requirements in 9-3.1.2 should be acknowledged and the agency advised their request has been forwarded to FBIHQ.
- (2) When forwarding requests from state and local agencies seeking FBIHQ records, forward any field office information pertinent to the requests to FBIHQ in a form suitable for dissemination (for example, letterhead memorandum) so that it may be reviewed at the same time FBIHQ records are searched and reviewed.
- (3) If there is no information in the field office files, this should be so stated in the cover communication forwarding the request. A single dissemination will be made by FBIHQ when there are both field and FBIHQ records involved. A control file to record dissemination of information should be maintained. Copies of dissemination by the field office, or by FBIHQ through the field office, should be kept in the file. Since the control file is for dissemination, it is not necessary to record "no record" responses. When a main file exists in the field office for the subject of the inquiry, copies of the response should also be filed in that main file.
- (4) Questions may be addressed to Administrative Law Unit, Office of the General Counsel, or to the Field Services Unit, Information Resources Division.

9-3.1.5 Privacy Act Considerations

The Privacy Act of 1974 governs collecting, maintaining, and disseminating information about an individual. It applies when the subject of the request is an individual or when the response would include identifying information about the individual. The term "individual" is defined in the Privacy Act as "a citizen of the United States or an alien lawfully admitted for permanent residence." Every dissemination of information by the FBI to federal, state and local agencies must be in accordance with the statute. Most requests from state and local criminal justice agencies for law enforcement purposes are handled under subsection (b)(3) and, to a lesser extent, under subsection (b)(7). Requests from state and local agencies not part of the criminal justice system, or from state and local criminal justice agencies but not for law enforcement purposes, can be handled only under subsection (b)(3) or (b)(7), by FBIHQ, and only under exceptional circumstances as described above.

9-3.2 Information Totally Within Jurisdiction of Other Federal Agencies

This information should be forwarded promptly to nearest office of interested agency. It should be made clear to the other agency whether the information has been verified. If information will likely result in publicity or if FBIHQ may be otherwise interested, FBIHQ should be promptly advised.

9-3.3 Information Within FBI Jurisdiction and of Interest to Another Federal Agency

Any matter including information of a criminal nature should be furnished to other federal agencies in the Executive Branch as appropriate. Some classifications require special dissemination. Consult the appropriate section of the Manual of Investigative Operations and Guidelines and the National Foreign Intelligence Program Manual (NFIPM) for details.

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9-3.3.1 Subject of Information Employed in Vital Facility

- (1) Term "vital facility" includes facilities designated as key facilities by Secretary of Defense, those having classified contracts with agencies of Federal Government and those which are or may become engaged in manufacture of materials vital to defense effort.
- (2) When information described in Executive Order 10450, Section 8(a)(1) is received concerning an individual employed in, or having access to, a vital facility from a source other than the interested intelligence agency, a summary of the information, together with any relevant information in file concerning the individual, should be furnished immediately by letter to the interested agency, as well as to Defense Industrial Security Clearance Office (DISCO), Defense Logistics Agency, Columbus, Ohio 43215, Attention: Chief, Adjudication Division, advising whether or not an investigation is being conducted by FBI, and if so, that investigative reports will be furnished. In making dissemination to other interested intelligence agencies, note dissemination was made to DISCO. Instructions regarding dissemination to DISCO do not encompass facilities of interest only to Department of Energy or Nuclear Regulatory Commission.
- (3) The above policy also applies to information described in Executive Order 10450, Section 8(a)(1) through 8(a)(7) concerning persons who may not be currently employed at such a facility, but who are known to hold industrial security clearances. These communications should clearly point out that the information has been verified through FBI investigation.

9-3.3.2 Dissemination Requirements Concerning Certain Federal Agencies

- (1) Federal Aviation Administration - Federal Aviation Administration issues certificates to airmen who are defined as persons in command or acting as pilot, aviation mechanic, flight engineers, flight navigators, as well as individuals directly in charge of the inspection, maintenance, overhauling or repair of aircraft, aircraft engines, propellers or appliances; and any individual serving in capacity of aircraft dispatcher or air traffic control tower operator. Any data developed concerning persons who are known or believed to be airmen, regarding illegal activities of such individuals which would indicate that they might become engaged in clandestine acts using civil aircraft, should be furnished to FBIHQ by report or letterhead memorandum, together with a cover communication recommending that data be furnished to the Federal Aviation Administration. Copy will likewise be made available to Internal Security Section of Department. Clandestine acts referred to above include use of civil aircraft to introduce hostile weapons or components thereof into U. S., as well as possible use of civil aircraft to deliver weapons in support of military attack upon this country. Dissemination to Federal Aviation Administration will be made only at FBIHQ.
- (2) Immigration and Naturalization Service - Information concerning aliens and naturalized citizens which might have a bearing on deportation or denaturalization of such individuals, should be forwarded to local office of Immigration and Naturalization Service.
- (3) Internal Revenue Service - Supreme Court has held that money obtained by embezzlement must be reported by the embezzler in his/her Federal income tax return for year in which embezzlement took place. When subject is convicted in an FBI case involving embezzlement of funds, furnish necessary information, including the name and location of embezzler and amount of embezzlement, to nearest Director of Internal Revenue Service, wherever this can be done without jeopardizing pending FBI investigations or informants. In interviewing subjects of criminal investigation where

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the possibility exists the subject may have evaded payment of income taxes, consideration should be given to inquiring of the subject as to whether he/she filed an income tax return for the pertinent period and where it was filed.

(4) Food and Drug Administration - Food and Drug Administration enforces the Food, Drug and Cosmetic Act, Tea Act, Import Milk Act, Caustic Poison Act, and Filled Milk Act. Its activities are directed mainly toward promoting purity, standard potency and truthful and informative labeling of the essential commodities covered by the provisions of these five acts, as well as not controlled depressant and stimulant drugs. Complaints of this nature received at FBIHQ are referred to the Commissioner of Food and Drug Administration, Washington, D.C. Similar complaints received in the field should be referred to the nearest field agency of the Food and Drug Administration.

(5) Bureau of Alcohol, Tobacco and Firearms - The Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury is charged with the administration of the laws relating to the manufacture, warehousing and distribution of spirituous liquors, wines, fermented liquor and industrial alcohol. Bootlegging activities and other violations of the alcohol tax laws which are reported to FBIHQ are referred to the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C. Similar complaints received by FBI field offices should be reported to the nearest field representative of the Bureau of Alcohol, Tobacco and Firearms.

(6) U.S. Office of Personnel Management (Formerly the U.S. Civil Service Commission) - Requests for information concerning positions covered by the Office of Personnel Management and complaints pertaining to matters within the jurisdiction of that agency which are received at FBIHQ are referred directly to the U.S. Office of Personnel Management, Washington, D.C. Similar information reported to FBI field offices should be forwarded to the nearest regional office of the U.S. Office of Personnel Management.

(7) Chief Postal Inspector - Inquiries concerning the postal service and complaints pertaining to the theft of mail or postal matters are forwarded by FBIHQ to the Chief Postal Inspector, Washington, D.C. Similar information reported to FBI field offices should be transmitted to the nearest Postal Inspector in Charge, whose address can be obtained from any Postmaster.

(8) U.S. Secret Service - U.S. Secret Service, which is an entity of the Treasury Department, is empowered to suppress the counterfeiting of U.S. coins, notes and other obligations and securities of the Government. Violations of this nature which are reported to FBIHQ are referred to the Director, U.S. Secret Service, Department of the Treasury, Washington, D.C. Information of a similar nature received by FBI field offices should be reported to the nearest office of the U.S. Secret Service. (See 9-7.1 (2) for dissemination regarding threats against the President.)

(9) U.S. Customs Service - U.S. Customs Service, under the Commissioner, administers the powers and duties vested in the Secretary of the Treasury pertaining to the importation and entry of merchandise into, and the exportation of merchandise from the United States and the regulation of certain marine activities. The principal function of the U.S. Customs Service is the assessment and collection of import duties and incident to this, the prevention of smuggling. Complaints received on such matters by FBI field offices should be referred to the nearest district office of the U.S. Customs Service. Those received at FBIHQ are referred to the Commissioner of Customs, Washington, D.C.

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(10) Department of Labor - Department of Labor investigates some violations under Labor Management Reporting and Disclosure Act of 1959. Information received concerning such violations should be referred immediately to the USA so he/she may refer same to Department of Labor. Submit closing report when this has been done.

(11) Other Agencies - Information on civil disorders, demonstrations, impending disruptive actions and activities of terrorist and terrorist-oriented organizations that may affect Postal operations or Postal facilities, particularly those having Federal courtrooms, is to be furnished Postal Inspection Service representative since they protect Federal courtrooms housed in Postal buildings. Similarly, be alert to furnish such information to appropriate representatives of General Services Administration (or other Government agencies as indicated) whenever Federal facilities under its jurisdiction are involved.

9-3.3.3 Security Information

(1) Specific instructions regarding dissemination of security information as it relates to individuals are contained in Manual of Investigative Operations and Guidelines and National Foreign Intelligence Program Manual (NFIPM).

(2) The Atomic Energy Act of 1954 includes criminal violations within the jurisdiction of the FBI. Frequently referred for investigation are matters of lax security. All facts regarding lax security and negligence should be referred to FBIHQ in LHM suitable for dissemination to the interested agency.

9-3.3.4 Information From Sources of Questionable or Unknown Reliability

(1) Information from sources of unknown reliability and questionable reliability should, where pertinent, be disseminated to other interested agencies. With regard to data supplied by sources known to be unreliable, good judgment should be used and each instance must be assessed on individual basis.

(2) However, in each instance, every reasonable effort should be made to provide additional descriptive information regarding the source which will enable recipient agencies to intelligently evaluate the information.

9-3.4 Information Furnished to Local Law Enforcement Agencies

9-3.4.1 Subject in Custody

When a subject is in custody and to do so would not interfere with an FBI case, information should be furnished to local law enforcement agencies to enable them to:

- (1) Clear its records of offenses reported
- (2) Recover stolen property
- (3) Identify a violator of a local criminal statute.

The information should be furnished with regard for its impact on the FBI case.

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9-3.4.2 Interested Agency Outside a Field Office Territory

If the interested agency is in another field office's territory, a letter is to be sent to that office containing all information available, circumstances under which information was obtained, nature and location of any evidence, Federal prosecutive steps and officials involved, and the place where the subject is detained. Also include available descriptive data. When oral dissemination to an outside agency is necessary, see 9-3.5.3 of this section.

9-3.4.3 Interested Agency Within a Field Office's Territory

If the interested agency is in the field office's territory, a letter containing the information set out in 9-3.4.2 above, is to be sent or delivered to the head of the local agency. When oral dissemination to an outside agency is necessary, see 9-3.5.3 of this section.

9-3.4.4 Reporting Information Furnished

The fact that this action has been taken is to be set out in the investigative report. The file must also show such notification.

9-3.5 Method of Dissemination To Outside Agencies

Information is disseminated by reports, letters and/or letterhead memorandum, teletypes, research papers, or, in some cases, orally.

9-3.5.1 Reports To Outside Agencies

- (1) All reports must be prepared in accordance with prescribed rules of report writing.
- (2) Prior to the dissemination of a report, the following must be observed:
 - (a) Information and reports relating to national security being transmitted to agencies outside the FBI should, where justified, be properly classified and marked in accordance with the provisions of current Executive orders and regulations relating to Sensitive Compartmented Information when appropriate.
 - (b) All FBI reports distributed to outside agencies should include the following statement on the first page:

"This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency."
 - (c) When reports are disseminated by FBIHQ, appropriate ink notations showing the identity of recipient of report, date request received and from whom, date disseminated, how forwarded and initials of person responsible for dissemination should be placed in spaces provided on bottom of original FD-263 in file. In field file, such notations should be made in same location on cover page (FD-263) of top file copy. Dissemination notations on old-type reports are to be placed on back of original page at FBIHQ and on back of top file copy in field office when there is insufficient room for these notations at bottom of page; a notation should be placed at bottom of page to see reverse side for dissemination information.

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9-3.5.2 Letters and/or Letterhead Memoranda (LHMs) to Outside Agencies

- (1) When it is more practical, letters and/or LHMs may be used to disseminate information. This may apply where lengthy report contains some particular item of interest to another agency. Rather than disseminate entire report, it may be more practical to transmit pertinent data by letter and/or LHM.
- (2) Letter or LHM furnished another agency should include statement which contains, in substance, terminology appearing in property stamp for use on reports. Property statement should be placed at the bottom of the first page on all copies of the letter or LHM. This rule, of course, will not pertain to letters of purely administrative nature; letters simply referring complaints to outside agencies for action, or to letters directed to outside agencies merely to confirm convictions, etc., which information is public source material. (See MAOP, Part 2, 10-4.9.)
- (3) When using LHMs to transmit classified or otherwise sensitive information to a foreign intelligence service, the property stamp shall be placed on the bottom of the first page on all copies of the LHM. Refer to MIOG, Part 2, Section 26 for instructions on marking the LHM and classified information. (See Correspondence Guide-FBIHQ, Sections 1 and 12-4.)
- (4) Copies of LHMs prepared by Bureau's Legal Attaches may be furnished to interested outside agencies where appropriate. Of course, accompanying cover document is not disseminated. (See MAOP, Part 2, 10-4.9(2).)

9-3.5.3 Oral Dissemination to Outside Agencies (See also Legal Attache Manual, 6-8.)

- (1) Oral dissemination of information is the least accurate method and provides the greatest danger of mistake and misuse. Nevertheless, because of the nature of our investigative responsibilities, we must frequently disseminate orally. (See MAOP, Part II, 9-3.4.2, 9-3.4.3.)
- (2) Since the Privacy Act became effective we have had some additional legislative responsibilities to "account" for our dissemination; i.e., to furnish an accounting of what information was disseminated and to whom. This legislation also imposed general standards of accuracy, completeness, timeliness and relevancy on agencies maintaining records. (See MIOG, Part I, 190-3.3.)
- (3) In addition to the uses our dissemination has in the criminal and security fields, information disseminated by the FBI often has an influence upon whether a person is able to obtain government employment, or whether they receive a clearance. Therefore, accuracy in dissemination and accuracy in recording what has been disseminated is essential.
- (4) When oral dissemination of information is made:
 - (a) Rules of dissemination described herein should be adhered to.
 - (b) The use of Form FD-159 is optional, assuming a complete, accurate, handwritten notation satisfying the requirement of the Privacy Act is made on the file copy of the substantive file. The use of a control file to centrally store copies of Form FD-159 is also optional. If Form FD-159 is used, it must show as accurately as possible the source and nature of information which has been disseminated orally. When possible, indicate on the FD-159 the file, serial, page, and paragraph number from which information was disseminated. (See MAOP, Part II, 9-4.2.3.)

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(c) If FBI originates dissemination to another federal agency, it should be confirmed in writing.

(5) Recording outside contacts -

(a) Attorney General Order 532-73 requires that each Department employee record in memorandum form each oral communication (in person or by telephone) concerning a case or other matter pending before the Department with a noninvolved party indicating an interest in the case or matter.

(b) A "noninvolved party" means one with whom the employee would not have official contact in the handling of the case or other matter. The purpose of the requirement is to identify persons, including employees, seeking or offering information or exerting influence and whose contacts for these purposes may be improper.

(c) A contact by a representative of the news media acting in official capacity is not to be regarded as a contact by a noninvolved party. A contact by a media representative in his/her personal capacity, as where he/she inquires concerning status of investigation of a personal friend, is to be considered as a contact by a noninvolved party.

(d) A copy of each contact memorandum captioned "Recording Outside Contacts," followed by the title of the case or a brief description of the matter which was the subject of the contact, is to be maintained in the file.

(6) All such memoranda are to contain: Identity of each employee concerned, identity of the noninvolved party, the means by which the contact was made, title of the case or description of the information sought by or offered to the noninvolved party, and a complete recounting of the contact.

9-3.5.4 Accounting of Dissemination

Pursuant to Title 5, USC, Section 552a (c), the FBI must maintain an accounting of each dissemination as prescribed in MIOG, Part I, 190-3.3, "Accounting of Disclosures."

9-3.5.5 Routing Slip - Form FD-342

(1) To transmit letterhead memoranda to any agency or individual qualified to receive them, Form FD-342 may be used. File copy of letterhead memoranda should show dissemination was made.

(2) When anonymous letters are received alleging violations over which FBI has no jurisdiction but which are totally of concern to another agency, Form FD-342 may be used to transmit these letters to appropriate agency. It is not necessary to retain copy of letter or FD-342. When contents of letter warrant, more expeditious means of transmittal should be used.

(3) To transmit copy of disseminated teletype - Form FD-342 is used by originating offices to transmit to local offices of agencies copy of teletype which has been disseminated at FBIHQ and returned to field for dissemination purposes. Copy of teletype retained in file should clearly show local dissemination.

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9-3.5.6 Teletypes

Current intelligence data concerning civil disorders and potential violence or threats against the President and foreign intelligence matters which are furnished to FBIHQ by teletype can be disseminated to other Government officials and agencies.

- (1) Teletypes disseminated at FBIHQ should have noted on original of teletype, where copies sent, by whom and the date.
- (2) If dissemination is to be made in field to local branches of other agencies, originating office should include code word "SUCOP," abbreviation for "Submit Copy," at end of teletype submitted to FBIHQ. FBIHQ will then transmit to originating office by teletype copy of disseminated teletype. Upon receipt, originating office may reproduce it in sufficient quantity to handle required local dissemination. One copy of disseminated teletype should be filed in case file, with notation showing local dissemination made. Provisions concerning use of code word "SUCOP" are not applicable in domestic security/terrorism matters. In these categories, statement should be included in teletype sent to FBIHQ as to whether letterhead memorandum is being submitted. Where no letterhead memorandum is being submitted, copies of properly excised version of teletype may be used for local dissemination.
- (3) Where circumstances require immediate local dissemination, the information should be disseminated orally, not waiting for copy of dissemination teletype from FBIHQ. When received, such copy may be used for written confirmation.
- (4) When teletype dissemination procedure is used, submission of letterhead memorandum solely for confirmation can be eliminated in most cases. Where teletype summarizes lengthy data, complete information must be prepared for record in field office files. Where more complete data is required by FBIHQ and interested agencies but is not necessary to satisfy need for immediate dissemination, teletype should be followed by detailed letterhead memorandum. In such instances, administrative portion of teletype should indicate that letterhead memorandum follows.

9-3.5.7 Dissemination of Xeroxed Teletypes

- (1) Where appropriate, FBIHQ supervisor should ensure that Xerox copies of incoming teletype bear proper classification and declassification markings prior to dissemination. Bureau property stamp should also be placed on copies being disseminated. When copy of teletype is disseminated outside FBI, at FBIHQ appropriate notation should be placed in lower left corner of original indicating (number) CC to (agency), (date), followed by FBIHQ supervisor's initials. These instructions apply only when no material changes are made prior to dissemination outside Bureau. Xerox copy is to be stapled to original incoming teletype when routed to file so that our records will indicate exact text of material disseminated.
- (2) In some instances, FBIHQ may decide that material submitted by field for teletype dissemination does not warrant teletype handling. In such cases, incoming field teletype will be xeroxed after administrative data has been excised and copies will be disseminated by FBIHQ to appropriate agencies and furnished to field office for any local dissemination. This will eliminate need for follow-up letterhead memorandum by field in most cases. Field should carefully prepare teletypes containing information which may be of interest to other agencies so that all

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administrative data, including references, are placed under administrative heading at the end of teletype.

9-4 DISSEMINATION OF INFORMATION IN ANSWER TO SPECIFIC REQUESTS

9-4.1 Method of Handling Requests

FBIHQ handles thousands of requests for information from other Federal agencies each day. These requests are normally submitted on forms which contain identifying data. These forms are subsequently returned to submitting agency, together with disseminative information available, or if there is no record in FBIHQ files, they are returned stamped to that effect.

9-4.2 Persons Authorized to Request Information

9-4.2.1 Accredited Representatives

Information in FBIHQ files is generally furnished only to accredited representatives of executive agencies of Federal Government. Requesting agency must have legitimate interest in desired information.

9-4.2.2 Exception Regarding Name Check Requests

There are certain exceptions to foregoing general rule with regard to name check requests, as set forth below:

- (1) Local law enforcement agencies - Information of public source nature relating to subversive matters may be furnished in a blind memorandum to proper representatives of local and state law enforcement agencies upon receipt of specific request for information.
- (2) Name checks for Federal judges - At request of Federal judge, field office is authorized to search names of persons being considered for court positions through field office indices and to furnish pertinent information to Federal judge. Care must be taken to protect Bureau's sources, informants and techniques. Field offices may not accept from Federal judges requests for investigation of personnel under their jurisdiction.

9-4.2.3 Requests From U.S. Probation Officers

- (1) If a probation officer (preparing report of presentence investigation) requests a field office to furnish information not readily available in the office of a USA, such requests may be complied with, provided this does not disclose confidential information or sources. Bear in mind that the court in its presentence function is interested in knowing mitigating or aggravating circumstances of the crime and the background of the defendant. Also note that the court may disclose to the defendant or his/her counsel all or part of the material contained in the report of a presentence investigation. Reports may be made available to the probation officer since routine use allows for the dissemination of information to federal agencies, not limited only to the Executive Branch.
- (2) When information is furnished in written form to the probation officer, a copy of the communication should be placed in the file. When information is being furnished orally, care must

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be taken, as noted in Section 9-3.5.3, above, to precisely record the file, serial, page, and paragraph number from which the information was disseminated.

9-4.2.4 FBIHQ Coordination of Congressional Liaison

(1) The Office of Public and Congressional Affairs (OPCA) is the only organizational section within the FBI that is authorized to deal directly with congressional entities, Members of Congress, or their staff, with only two exceptions: the Finance Division has concurrent liaison responsibility with OPCA for the House and Senate Appropriations Subcommittees on Commerce, Justice, State, and Judiciary, and second, personal contact by SACs with local delegations.

(2) Liaison with the General Accounting Office (GAO) is handled by OPCA. The initial point of contact for any GAO audit, interview, or general contact within the FBI is the OPCA, FBIHQ. No direct contact should be undertaken with GAO by field office or Legat personnel without prior coordination and approval of FBIHQ. Interviews of FBI personnel, disclosure of information, or dissemination of FBI documentation should not be provided to any audit unit of GAO until GAO has given notification to FBIHQ and received approval to make the contacts.

(3) Additionally, FBIHQ will deny GAO access to any information that will identify pending cases, nor will FBIHQ provide GAO access to Inspection Division papers. Consistent with Department of Justice (DOJ) policy, interviews with nonmanagement personnel will also be denied. For management, policy and proper coordination of GAO audits, field contacts by the GAO should be with FBI senior management or supervisory personnel only.

9-4.2.5 Response to Congressional Requests

(1) When receiving a request for information from any congressional source, the field office must immediately prepare and mail an interim response to the inquirer prior to forwarding the request to FBIHQ. This interim response should only acknowledge receipt of the inquiry and state that the inquiry is being forwarded to FBIHQ for response. A copy of the interim response should be attached to the request when forwarded to FBIHQ and information of sufficient detail must be provided by the field office so that an appropriate response to the inquiry may be prepared. The field office also should place the inquiry on record and index for reference purposes. Inquiries forwarded to FBIHQ should be directed to the Office of Public and Congressional Affairs (OPCA).

(2) In situations where the inquiry can be handled by the field office, no interim response is required, provided an answer can be forwarded to the congressional source within three days. A copy of the inquiry and your final response should expeditiously be sent to FBIHQ. Any questions regarding a congressional inquiry should be directed to the OPCA.

9-4.2.6 Investigative Activity in Congressional Offices

You may take investigative action upon information received from congressional offices, as you would with respect to information received from any outside source. Also, you may follow investigative leads into congressional offices; although, in some cases, good judgment may dictate notifying FBIHQ and the Congressional Affairs Office either before or after such investigative contacts. The only specific limitations in this area are where you seek to interview a Member or a staff person in connection with a foreign counterintelligence matter, you seek to establish an

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informant relationship with a staff person, or the Congressional office is located on Capitol Hill. In those cases, prior FBIHQ, and more specifically, the Congressional Affairs Office's approval must be obtained.

9-4.2.7 Distributions of Memoranda and Copies of Responses

(1) Copies of correspondence dealing with proposed or pending measures in Congress, Members of Congress, congressional staff personnel, congressional committees, or any congressional activity should be designated for the Office of Public and Congressional Affairs (OPCA). Copies of any pertinent incoming communications should be attached. (See Correspondence Guide - FBIHQ, Sections 8-4(11) and 9-4(11).)

(2) Memoranda recommending action by OPCA and outgoing communications concerning our dealings with Congress or affecting legislation in which FBI has interest, should be routed through OPCA.

9-4.2.8 Deleted

9-4.2.9 Dissemination to the White House Complex (WHC) (See MIOG, Part 1, 77-12, 161-10; Part 2, 17-8.)

(1) The FBI receives requests from the WHC for name checks and background investigations on persons being considered for presidential appointments with U.S. Senate confirmation, for presidential awards, for WHC employment/access, or for detailee, contractor, and volunteer access to the WHC. The WHC is comprised of The White House and the organizations that make up the Executive Office of the President. The Information Resources Division's Executive Agencies Dissemination Subunit (EADS) is responsible for processing WHC name-check requests, and the Administrative Services Division's Special Inquiry and General Background Investigations Unit (SIGBIU) is responsible for processing WHC background investigation (and related) requests. These requests may not be honored unless accompanied by one of the following:

(a) Consent of the subject executed within 30 days of the request, or
(b) A letter from the Counsel to the President through the Deputy Attorney General (DAG) to the FBI's General Counsel setting forth a written explanation why such consent cannot be obtained or should not be sought in the circumstances.

(2) The Department of Justice (DOJ) has established procedures governing communications with the White House about pending DOJ investigations in criminal and civil cases. Initial communications between the White House and DOJ (including the FBI) regarding such matters should involve only the White House Counsel or Deputy Counsel (or the President or Vice-President) and the Attorney General or DAG. If continuing contact is required on a particular matter, the White House Counsel's Office and the senior DOJ official with whom it is dealing will establish and monitor that contact. DOJ has also established procedures governing communications with the White House on pending foreign counterintelligence investigations (see the Attorney General's "Guidelines for FBI Dissemination to the White House of Foreign Intelligence and Counterintelligence Information," annex to the Attorney General's "Guidelines for FBI Intelligence Collection and Foreign Counterintelligence Investigations" in the NFIP Manual, Appendix, I-1.1).

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(3) All FBI divisions and field offices should be aware that any request for a name check or background investigation on persons being considered for presidential appointments with U.S. Senate confirmation, for presidential awards, for WHC employment/access, or for detailee, contractor, and volunteer access to the WHC must first be processed through FBIHQ before any investigation is initiated in the field. Address any questions concerning this policy to the Administrative Law Unit of the Office of the General Counsel at FBIHQ.

9-4.3 Proper Request For Information

9-4.3.1 Identifying Data

No request for information from FBIHQ files should be accepted under ordinary circumstances unless accompanied by adequate identifying data to enable an intelligent handling of request. This includes such items as full name of individual or organization on whom check is to be made; other names used; sex; marital status; birth data; reason for request; any identifying numbers (armed forces serial number, passport number, social security numbers, etc.); spouse's full name and birth data; dates and places of residence and employment during past 15 years.

9-4.3.2 Requests Received at Field Level

No request for information should be accepted on applicants for positions with a requesting Federal agency at field office level. Security checks are made on all such individuals at FBIHQ and review of field office files is unnecessary duplication of work. Unless special reason exists, no requests should be forwarded to FBIHQ by field office in behalf of another agency. Local office of inquiring agency should not submit its requests directly to FBIHQ, but through its Washington headquarters.

9-4.4 What Information May Be Disseminated

When accepting name check requests in field office, it should be pointed out that information in field office files is not necessarily complete, and that more complete information may be available at Headquarters. It should be stressed that in order to assure that maximum identifiable information is obtained, a search of records of Criminal Justice Information Services Division should be requested in addition to request that FBIHQ files be checked. Requesting agencies should further be advised that search of Criminal Justice Information Services Division files is only means by which information pertaining to arrests for offenses not under FBI jurisdiction may be obtained (provided, of course, FBI has been furnished fingerprints for such arrests). Positive identifications can be made only by search of actual fingerprints, or name search accompanied by FBI number. Check by name plus local arrest, commitment, registry, applicant, or military service number may result in positive identification; however, with some common names, the voluminous nature of the alphabetical name files makes a search impractical. Check by name only is the most inconclusive due to frequent use of aliases by persons arrested.

(1) Basic rule with regard to dissemination is that the FBI disseminates only the results of its investigations.

(2) Information obtained during course of FBI investigation may be disseminated in response to name check request, subject to following provisions:

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- (a) Inquiring agency must be advised that the information furnished was obtained during course of an FBI investigation. Information concerning persons closely associated with subject of inquiry (i.e., members of his/her immediate family, etc.) if deemed pertinent.
- (b) With regard to problem of identification, there must be sufficient information to reach reasonable conclusion that the data relates to subject of inquiry. Any variation in available identifying information should be brought to inquiring agency's attention.
- (c) If Bureau files contain favorable information concerning subject of inquiry, together with information of a derogatory nature, both types should be disseminated in order to furnish a complete picture.
- (d) No dissemination should be made by field office of investigations concerning past or present Bureau employees. All requests involving such situations should be referred to the Information Resources Division, Field Services Unit, FBIHQ. (Also see Part I, Sections 1-15.3 and 20-15, of this manual.)

Certain exceptions to aforementioned basic rule with regard to dissemination only of results of FBI investigations are set forth below:

9-4.4.1 Reliable Source Information

When information has been received from a reliable source, and the information is suitable for dissemination under the various authorities and regulations set forth in these manuals, it should be disseminated even though no active investigation was conducted. An analysis of the reliability of the source and of the accuracy of the information should be furnished when possible, and when to do so would not jeopardize the source of information.

9-4.4.2 Public Source Information

- (1) Information in our files obtained from public source material may be disseminated where pertinent and relevant, provided public source is fully identified. It must be understood by agency receiving information that it has not been verified by FBI.
- (2) Certain printed public source material may contain a characterization of a group, individual or activity. When such information is disseminated to FBIHQ, FBI field offices or outside the FBI, the transmitting communication should state that the characterization has not been made by the FBI, but by a third party. However, if the characterization comports in whole or in part with the results of independent FBI investigation, the transmitting communication may so state.

9-4.4.3 Information in Rumor or Gossip Category

Care should be taken not to disseminate information in "rumor" or "gossip" category unless a specific reason exists. If such dissemination is deemed necessary, source should be fully described and requesting agency should be alerted to the degree of investigation conducted to prove or disprove the rumor or gossip.

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9-4.4.4 Information Received From Other Government Agencies

Generally, where FBI files contain information from a Government agency other than requesting agency, no dissemination should be made. Instead, requester should be referred to agency from which the information originated.

9-4.4.5 Information Within Purview of Executive Order 10450

(1) Whenever information described in Executive Order 10450, Section 8 (a) (2) through 8 (a) (7) is discovered in field office files or is received by field office on employee of Executive Branch of government, it should be handled in accordance with Manual of Investigative Operations and Guidelines (dealing with security of government employees). In addition, when information is discovered or received on such employee by field office through name check or otherwise, such information which is within the purview of Executive Order 10450 should be forwarded to FBIHQ for appropriate dissemination in addition to furnishing it to local federal officials as appropriate. Such information should be sent to FBIHQ promptly in letterhead memorandum form consisting of original and three copies. In those cases within which information described in EO 10450, Section 8 (a) (1) is discovered or received on such an employee and the employee then resigns or is discharged prior to the completion of investigation, submit letterhead memoranda to FBIHQ for dissemination.

(2) FBI policy under Executive Order 10450 is to furnish U.S. Office of Personnel Management all pertinent identifiable information as described in Executive Order 10450 Section 8 (a) (1), even though it is not result of our investigation and may not have been confirmed, unless there are specific reasons that the information not be disseminated; e.g., information describing the exercise of a right guaranteed by the First Amendment as described in MIOG: Part I, 190-5.1, "Restrictions on Information Relating to First Amendment Rights."

9-4.5 Manner of Disseminating in Response to Specific Inquiry**9-4.5.1 Reports**

(1) When inquiries are received from agencies within Executive Branch for information on individuals who have been investigated by the FBI, it is permissible to disseminate copies of previously prepared investigative reports in response.

Exceptions to foregoing are investigative reports bearing characters, "Security of Government Employees - Referrals," "Special Inquiry," or other similar cases or background-type cases in which FBIHQ is office of origin. Reports should not be disseminated by the field office but requesting agencies should be advised to submit their requests to FBIHQ through agencies' headquarters in Washington. It should be pointed out that complete data will normally only be available at FBIHQ.

(2) There should also appear on the first page of the communication responding to name check request the following statement:

"Check of FBI Headquarters investigative files based upon data submitted and limited pursuant to established policy located no identifiable information pertinent to your inquiry. This is not to be considered as a clearance. A request to check arrest records must be submitted to FBI Criminal

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Justice Information Services Division. Fingerprints are necessary for a positive check." (See MAOP, Part II, 9-4.5.3 (1).)

9-4.5.2 Letters and/or Memoranda

Letters and/or memoranda containing information conforming to rules of dissemination may also be furnished. Following descriptive data applies to two types of memoranda used:

(1) Letterhead Memorandum - This memorandum is normally used in answering name check requests. In addition:

- (a) If indices search reveals no investigation has been conducted concerning subject of inquiry, incorporate in text a statement to that effect. When information is being furnished, but it did not come from a direct investigation of the subject, an explanatory statement as to the source of the information should be furnished; i.e., "However, our files contain the following information received during the course of a security-type investigation concerning another individual....," etc.
- (b) Include statement which contains in substance the terminology appearing in property stamp heretofore described (in Section 9-3.5.1(2) above) for the use on reports being disseminated. This statement should be placed at the bottom of the first page on all copies.
- (c) Do not use T symbols for informants unless absolutely necessary for purpose of clarity in an involved memorandum.
- (d) Show on yellow file copy file number from which material was abstracted, date request was received and from whom, and identity of recipient.
- (e) Form FD-342 may be used to transmit letterhead memoranda. File copy of letterhead memorandum should show any dissemination.

(2) Blind Memorandum - Follow instructions on preparation of these memoranda. In addition:

- (a) Adequately identify all public source data referred to therein.
- (b) Do not use T symbols or any other phraseology which might identify the FBI as source of memorandum.
- (c) Show on yellow file copy file number from which material was abstracted, date request was received and from whom, and identity of recipient.

9-4.5.3 Notations

Under certain conditions a stamp or written statement, placed on incoming communication, may be used to answer name check request. The following are merely suggestions as to the types of stamps or statements which may be used to streamline operations. Variations may be adopted as needed.

(1) No identifiable information - Should an indices search fail to reveal record of, or information identifiable with, subject of inquiry or should files contain information irrelevant to inquiry or information of nondisseminative nature, provided there was no investigation conducted by the Bureau, a statement similar to following is suggested: (See MAOP, Part II, 9-4.5.1(2).)

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"Check of FBI Headquarters and FBI Office investigative files based upon data submitted located no identifiable information pertinent to your inquiry. Not to be considered as a clearance. To check arrest records request must be submitted to FBI Criminal Justice Information Services Division. Fingerprints are necessary for positive check."

(2) Applicant investigation - Should review of references concerning subject of inquiry reveal that files contain only results of an applicant-type investigation, which developed no pertinent derogatory information following statement is suggested:

"An applicant-type investigation conducted (by the FBI) (within the territory covered by the _____ FBI Office) revealed no pertinent derogatory information. This investigation was concluded on _____. This is the result of a check of (FBI) (the _____ FBI Office) files and is not to be considered as a clearance."

When this statement is stamped or written on incoming inquiry and returned to submitting agency, an ink or stamp notation should be placed on FD-263 on top report in file to note dissemination. Following ink notations should also appear on FD-263: Identity of recipient, date request received, date of dissemination, and initials of person authorizing dissemination. At FBIHQ foregoing notations are to be placed on original copy of FD-263 of top report in file.

(3) Referral - Should indices search reveal that pertinent information in files has previously been furnished requesting agency, statement similar to following is suggested:

"Refer to data re _____ who appears to be _____ of the subject of your inquiry which was sent to your agency on _____."

(4) When any inquiry is answered by placing of stamped or written statement on incoming form, following must be included as part of reply:

"This reply is result of check of FBI Headquarters investigative files. To check arrest records, request must be submitted to FBI Criminal Justice Information Services Division. Fingerprints are necessary for positive check."

9-4.5.4 Miscellaneous

Be alert, when handling name check requests from other agencies, to recognize information which may be of help in pending investigations or which warrants opening of new case.

9-5 REQUESTS FOR INFORMATION ON COSTS (See MIOG, Part II, 34-7.)

Requests are sometimes received from courts, USAs, or government agencies for information as to actual or estimated costs of FBI investigations or some other phase of Bureau work. The requester should be informed that the request must be referred to the Budget Execution Unit, Accounting Section, Finance Division. In no instance should such information be furnished without prior FBIHQ authority. Requests should include the following:

- (1) Name of individual or agency making inquiry.
- (2) Specific information desired.
- (3) Intended use of the information.

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(4) Deadline for furnishing information, if any.

(5) Deleted

9-6 MAJOR CASES - DISSEMINATION OF INFORMATION (See MIOG, Part 2, 34-7.)

(1) Office of origin, in connection with major cases, should send communications to appropriate FBI field offices, setting forth background of case and requesting law enforcement agencies and logical informants be contacted for any pertinent information. This should be done by cover communication (FD-412 may be used), enclosing letterhead memorandum to each receiving office. In bank robbery statute violations, the letterhead memorandum, suitable for dissemination, if required, should contain only basic details of crime. Such information would consist of facts of case, descriptions of subjects, descriptions of loot obtained, etc. Receiving offices may reproduce letterhead memorandum, making sufficient copies for distribution to appropriate Agents in office and appropriate law enforcement agencies. Letterhead memorandum may be left with such law enforcement agencies to facilitate referral of any pertinent information regarding case to FBI. Only positive results should be furnished office of origin. In all cases involving armored carrier/courier robberies, losses, and thefts, an FD-430 must be entered into the Bank Robbery Statistical Application within 15 workdays. (See MIOG, Part 1, 15-4(9), 91-12.1, 87-5.3.2, 192-11.1 & 192-11.2.)

(2) Deleted

9-7 THREAT TO LIFE - DISSEMINATION OF INFORMATION (See MIOG, Part I, 89-6, 166-4, 175-22.1, and 179-7.)

The following guidelines cover the FBI's responsibility to warn persons of threats to their life or threats that may result in serious bodily injury and policy regarding notification to other law enforcement agencies of such threats. (Extracted from Resolution 20 dated 12/16/96. See footnotes at the end of this citation.) In all instances, manner depending upon exigencies of situation, FBIHQ should be advised of details of such threats together with a notification of action taken or a recommendation as to action to be initiated UACB.

"III. Guidelines

"A. Warning to the Person.

"(1) Expeditious Warnings to Identifiable Persons. Except as provided below in paragraph IIIA(3), when a Federal Law Enforcement Agency has information that a person who is identified or can be identified through reasonable means is subject to credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to warn that person of the nature and extent of the threat.

"(2) Manner, Means, and Documentation of Warning.

"a. The Agency may determine the means and manner of the warning, using the method most likely to provide direct notice to the intended victim. In some cases, this may require the assistance of a third party. The Agency must document in writing in its files the content of the warning, and when and where, and by whom it was delivered to the intended victim.

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"b. An Agency may seek the assistance of another law enforcement agency to provide the warning. If this is done, the Agency must document in writing in its files the notification of the threat, and when, where, and the name of the other agency's representative to whom it was delivered, along with the other agency's agreement to provide a timely warning.

"(3) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to warn an intended victim of a threat to his/her life or of serious bodily injury in the following circumstances:

"(i) when providing the warning to the intended victim is likely to cause equal or greater physical harm to one or more persons; 1

"(ii) when the intended victim knows the nature and extent of the specific threat against him/her; or

"(iii) when the intended victim is: (a) a public official who, because of his/her official position, is provided a protective detail; (b) a participant in the Witness Security Program that is administered by the United States Marshals Service; or (c) detained or incarcerated. See paragraph IIIB(1).

"b. Whenever time and circumstances permit, an Agency's decision not to provide a warning in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. 2 In all cases, the reasons for an Agency's decision not to provide a warning must be documented in writing in the Agency's files.

"NOTE: This paragraph does not apply to the agencies directly responsible for providing the security for the individuals referred to in paragraph IIIA(3)a(iii), above, when the threat is to the referenced individual. In such cases, documentation, if any, should be created in accordance with the agency procedures.

"B. Notification to Law Enforcement Agencies With Protective or Custodial Jurisdiction.

"(1) Expeditious Notification. When a Federal Law Enforcement Agency has information that a person described above in paragraph IIIA(3)a(iii) is subject to any threat to his/her life or of serious bodily injury, the Agency must expeditiously notify other law enforcement agencies that have protective or custodial jurisdiction.

"(2) Means, Manner, and Documentation of Notification. The notifying Agency may determine the means and manner of the notification. When providing notification, the notifying Agency shall provide as much information as possible regarding the threat and the credibility of the threat. The notifying Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"C. Notification to Law Enforcement Agencies That Have Investigative Jurisdiction.

"(1) Expeditious Notification. Except as provided below in paragraph IIIC(4), when a Federal Law Enforcement Agency has information that a person (other than a person described above in paragraph IIIA(3)a(iii)) who is identified or can be identified through reasonable means is subject to a credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to notify other law enforcement agencies that have investigative jurisdiction concerning the threat.

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"(2) Threats to Occupied Structures or Conveyances. When a Federal Law Enforcement Agency has information that a structure or conveyance which can be identified through reasonable means is subject to a credible threat which could cause loss of life or serious bodily injury to its occupants, the Agency should provide expeditious notification to other law enforcement agencies that have jurisdiction concerning the threat.

"(3) Means, Manner, and Documentation of Notification. The Agency may determine the means and manner of the notification. The Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"(4) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to notify another law enforcement agency that has investigative jurisdiction concerning a threat:

"(i) when providing the notification to the other law enforcement agency is likely to cause equal or greater physical harm to one or more persons; or

"(ii) when the other law enforcement agency knows the nature and extent of the specific threat to the intended victim.

"b. Whenever time and circumstances permit, an Agency's decision not to provide notification to another law enforcement agency in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. In all cases, the reasons for an agency's decision not to provide notification should be documented in writing in the Agency's files.

"IV. Rights of Third Parties.

"Nothing in these guidelines is intended to create, or does create, an enforceable legal right or private right of action. _____

Footnotes:

"1 If the equal or greater harm would occur to a Government informant or Agent as a result of his/her participation in an investigation, consideration should be given to extricating that individual from the investigation or taking other appropriate measures in order to minimize the risk.

"2 As used in these guidelines, 'Senior Field Manager' refers to a Federal Law Enforcement Agency operational field manager of the GS-15 rank or higher, or the person serving in that capacity in his or her absence."

9-7.1 Information Concerning Threats Against the President and Other Designated Officials

(1) The U.S. Secret Service (USSS) has statutory authority to protect, or to engage in certain activities to protect, the President and certain other persons as specified in Title 18, USC, Section 3056. An agreement existing between the FBI and USSS (see MIOG, Part II, Section 18-6) defines what information on file with, or received or originated by, the FBI, which the USSS desires to receive in connection with its protective responsibilities.

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(2) Detailed guidelines on dissemination of information re threats against the President of the United States and other persons protected by the USSS are set forth in MIOG, Part I, Section 175, "Presidential and Presidential Staff Assassination, Kidnaping and Assault."

9-7.2 Information Concerning Threats, Possible Violence or Demonstrations Against Foreign Establishments or Officials in United States

9-7.2.1 Information Received Through Other Than Technical Surveillance

If information is received through other than technical surveillance on foreign official or establishment and time is not of essence, set forth details in LHM and promptly disseminate copy of LHM locally to Department of State (including State representative accompanying foreign dignitary, if applicable), Secret Service, and any other Government agencies that may have interest. (Orally advise local police.) LHM should indicate local dissemination made. If time is of essence, telephonically advise all local interested agencies, including police, and notify FBIHQ by telephone or teletype identifying local agencies notified.

9-7.2.2 Information Received Through Technical Surveillance

If such information is received through technical surveillance on foreign official or establishment, immediately notify FBIHQ by telephone or teletype. Teletype should be in form suitable for dissemination with identity and sensitive nature of source set forth under administrative section, and should be classified "Secret- No Foreign Dissemination." FBIHQ will immediately notify Department of State and Secret Service. Make no dissemination locally, telephonically or by LHM, but submit confirming LHM by electronic communication if FBIHQ notified by telephone. This procedure is followed to protect sensitive sources. Department of State has advised it is responsibility of foreign official or establishment that received such information to alert local police and other appropriate agencies.

9-7.2.3 Miscellaneous

Offices covering itinerary of visiting foreign dignitary should alert sources and informants to promptly report any information of this type. Offices should also be constantly alert for any information which might be of interest to FBIHQ and other U.S. Government agencies.

9-8 REPLIES TO FOREIGN POLICE AND INTELLIGENCE CONTACTS

Replies to requests for investigation from foreign police agencies, forwarded to the field by FBIHQ, should be prepared as letterhead memoranda, in sextuplicate on thin Bureau letterhead paper, suitable for dissemination without retyping. Any information not suitable for dissemination should be incorporated in the cover letter.

9-8.1 Letterhead Memoranda Prepared by Bureau's Foreign Offices

Copies of letterhead memoranda prepared by the Bureau's Legal Attaches abroad may be furnished to interested outside agencies where appropriate. Of course, accompanying cover document is not disseminated.

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9-8.2 Dissemination of Classified Information

See the National Foreign Intelligence Program Manual (NFIPM) for guidelines and particulars concerning dissemination of classified information.

9-9 DISSEMINATION OF GRAND JURY MATERIAL

There must be no routine dissemination of matters occurring before the grand jury (see MIOG, Part II, 2-9.5.1) unless the dissemination comes within the exceptions set forth in Rule 6(e), Federal Rules of Criminal Procedure (Fed. R. Crim. P.) (see MIOG, Part II, 2-9.4 and 2-9.5). Reports and memoranda containing grand jury material, as well as the actual grand jury subpoenas, should be labeled "GRAND JURY MATERIAL - DISSEMINATE ONLY PURSUANT TO RULE 6(e) FED.R.CRIM.P.," and access must be limited to authorized persons, i.e., those assisting an attorney for the government in the specific criminal investigation (see MIOG, Part II, 2-9.5 and 2-9.7).

9-10 DISSEMINATION OF TITLE XI, RIGHT TO FINANCIAL PRIVACY ACT OF 1978 (RFPa) MATERIAL

There must be no routine dissemination of financial records originally obtained pursuant to the RFPa effective March 10, 1979, to another agency or department unless such transfer of records is in accordance with the provisions of that Act. Reports and memoranda containing Title XI material should be labeled "TITLE XI MATERIAL - DISSEMINATE ONLY PURSUANT TO PROVISIONS OF THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978." (See MIOG, Part II, 23-6.6.5 and 23-6.11.)

9-11 DISSEMINATION OF INFORMATION DURING TRAINING SESSIONS AND ACADEMIC WORKSHOPS

(1) The following guidelines apply to training sessions, such as new Agent's instruction, Agent in-services, and general police schools at which Bureau personnel provide instruction to state or local officers. They are not intended to apply in situations where the Bureau is closely involved operationally with other law enforcement agencies in the investigation of a pending case and information on that case is routinely exchanged.

(2) During training sessions and academic workshops, the following guidelines should be adhered to:

(a) Where the training group is composed entirely of Bureau personnel and a legitimate training purpose will be served, pending investigative matters may be discussed unless good judgment dictates otherwise. Good judgment suggests, for example, that details of very sensitive investigations, such as undercover operations, not be discussed. However, if some discussion is critical to the training purpose, then only the minimum detail necessary to achieve the purpose should be revealed.

(b) Where the training group is composed in part or in whole of non-Bureau personnel, pending investigative matters should be discussed only in accordance with the guidelines in Title 28, CFR, Section 50.2 regarding release of information to the news media. These regulations, set forth in Part II, Section 5 of this manual, generally permit disclosure of incontrovertible, factual matters such as a defendant's general background, the text of a charge, length of the investigation, or circumstances

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surrounding an arrest. Subjective observations, references to investigative procedures, statements concerning available evidence, the identity of potential witnesses, etc., should not be discussed. Any doubts as to whether information may be discussed should be resolved in favor of nondisclosure.

9-12 ACCESS TO DOCUMENTS BY CURRENT AND FORMER FBI EMPLOYEES

Access to FBI records is available through the Freedom of Information Act (Title 5, USC, Section 552) and the Privacy Act (Title 5, USC, Section 552a), to the extent provided in those Acts, as well as under procedures established pursuant to the Johnson v. Reno (No. 93-0206 (D.D.C. 1993)) settlement agreement (see the AIRTEL to all SACs and others, subject: "Implementation of Settlement Agreement with Black Special Agents - Personnel Files," dated October 5, 1994, and the enclosure to that AIRTEL entitled, "Procedures for Employees to Access Personnel Files," at paragraph 6). In addition, current and former FBI employees may request access to FBI records in accordance with Department of Justice regulations, including those contained in 28 C.F.R. Part 16, Subpart G, "Access to Documents by Former Employees of the Department," and Department of Justice Order 2710.8C, "Removal and Maintenance of, and Access to, Documents," dated November 7, 2000. Requests for removal of and access to FBI records under this authority must be submitted in writing to the head of the component where the employee works or worked. Pursuant to 28 C.F.R. Section 16.300(b), "This authority may not be delegated below the level of principal deputy component head." While retaining full concurrent authority, the FBI Director has delegated to the Executive Assistant Director for Administration the authority to approve such requests from employees who serve or served at or below that level (except that they may not act on their own requests). (See also MAOP, Part 1, 20-4.2, re instructions for employees to access their personnel files.)

9-13 DISSEMINATION BY FIELD INTELLIGENCE GROUPS

- (1) Information is to be shared by rule and withheld by exception – subject to appropriate procedures and processes. The following sections provide broad guidelines for the sharing of information across internal organizational boundaries and with the larger National Security, Homeland Security, and federal, state, tribal, local, and international law enforcement communities.
- (2) The FIG will serve as the central point of contact for internal and external consumers of FBI intelligence products. Inherent in this role is the responsibility to provide central management and coordination of dissemination and information sharing.
- (3) The FIG will also manage the Field Office's participation in information sharing initiatives and networks that are established through national or local efforts. This includes participation in Multi-Agency Intelligence Centers (MAIC) and Fusion Centers.

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